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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,361	11/19/2003	James F. Desmond	P02784	9536

28548 7590 03/05/2007
STONEMAN LAW OFFICES, LTD
3113 NORTH 3RD STREET
PHOENIX, AZ 85012

EXAMINER

TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/718,361

Applicant(s)

DESMOND, JAMES F.

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-28,30-32,47,53-55,57 and 61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-28,30-32,47,53-55,57 and 61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION


In view of the Appeal Brief filed on 01/05/2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 25-28, 47, 53, 55, and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Borden (U.S. Patent No. 5,918,650).

Borden discloses an adapted element system kit for assisting pouring of a flowable substance from at least one first container comprising at least one first threaded opening to (Fig. 1; via container 22) to at least one second container (Fig. 1; via container 38 and thread 20) having at least one second threaded opening (via 36); comprising at least one adapter cap comprising at least one Yorker tip (via 1st mating piece 12); wherein the at least one adapter cap is structured and arranged to connect to the at least one first threaded opening of the at least one first container (Fig. 1; via adapter 12 connected to threaded opening 20); at least one receiving adapter (Fig. 1; via 2nd mating piece 14) comprising at least one access structured and arranged to flowably connect with the at least one Yorker tip of the at least one adapter cap (Fig. 1; via 14 connected with the Yorker tip 12); wherein the at least one receiving adapter comprises at least one threaded port structured and arranged to connect with the at least one second threaded opening of the at least one second container (Fig. 1; via 14 connected to threaded opening 36); the at least one second container (via 38); wherein the at least one receiving adapter is structured and arranged so that the flowable substance may be transferred through the adapter cap

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connected to the at least one receiving adapter directly from the at least one second container (Fig. 1; via flowable substance transferred through 12 to the 14); wherein the at least one second container (38) comprises at least one flexible squeeze tube (note that bottle 38 is capable of being flexible squeeze tube as it is made of plastic as disclosed in column 1, lines 14 and 15).

Regarding claims 25 and 55: further comprising at least one o-ring structured and arranged to assist in providing a seal between the at least one receiving adapter cap and the at least one second threaded opening of the at least one second container (Fig. 1; via ribs 30 and 50).

Regarding claim 26: wherein the at least one second container comprises at least one spout (Fig. 1; via portions threaded portion).

Regarding claims 27 and 28: wherein the at least one spout comprises at least one non-spill valve and lanyard, see for example (Fig. 1).

Regarding claim 53: wherein the at least one second container is smaller than the at least one first container (Fig. 1). Note that it is inherent Borden's system is capable of working with second container being smaller than the first container.

Regarding claim 57: the at least one second container comprises at least one empty flexible squeeze tube body portion (via bottle 38 is inherently is squeezable) having at least one first end and at least one second end (it is inherent that such bottle will have first and second ends); wherein the at least one empty flexible squeeze tube body portion is new and unused for containment (inherent before the use the container is new and containment); wherein the at least one first end comprises a reclosable access system wherein the reclosable access system when closed seals such at least one first open end (via by capping the spout of the bottle); and wherein

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the at least one second end comprises a permanent "linear" tube type seal closure (via the bottom portion of the bottle).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-24, 30-32, 54, and 61 rejected under 35 U.S.C. 103(a) as being unpatentable over Borden (U.S. Patent No. 5,918,650).

Borden does not disclose the receiving adapter element comprises a plurality of receiving adapter elements; second container comprises a plurality of second containers; nor a plurality of squeeze tubes. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Borden's system by having a plurality of receiving adapter elements; second container comprises a plurality of second containers; and a plurality of squeeze tubes, in order to duplicate each part for extra use and/or replacing any damaged part by the customer, since it has been held that mere duplication of the essential working parts of a device/part involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 23: Borden does not disclose a travel-bag structured and arranged to hold and portably transport the plurality of second containers and the plurality of receiving adapter elements. However, the examiner takes an official notice that such travel bag to container human's needs is known, old, and available in the art.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Borden's system, by having a travel bag to container and hold the containers and adapters, as a matter of engineering design choice, in order to make it convenient carrying the product around.

Regarding claims 19-22: Borden does not disclose plunger syringe comprises catheter syringe with a capacity of about sixty cubic centimeter nor a flexible tube is between about one-eighth inch diameter and about one half inch diameter plastic tubing. However, as applicant did not specifically claim/refer to the use of such syringe along with the adapter element system, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Borden's system by adding syringe to the kit if needed, in order to measure and control the amount of the transfer liquid.

Regarding claim 30: Borden does not disclose that the second container is bag with bottom folded gusset. However, the examiner takes an official notice that such type of bag with bottom folded gusset is old, available, and known in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Borden's second container, by having a bag with bottom folded gusset, as a matter of engineering design choice, in order to make it convenient carrying the product around after transferring the liquid to the second bag.

Regarding claim 31: it is inherent that Borden's system will disclose a set of instructions to advice customers with the best way of using the system.

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Regarding claims 54 and 61: Borden does not disclose that the at least one flexible squeeze tube (38) is structured and arranged so that it can be folded substantially flat to expel air from within such flexible squeeze tube. However, the examiner takes an official notice that such flexible squeeze tube being structured and arranged so that it can be folded to expel air from within such flexible squeeze tube is old, available, and known in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Borden's second container, by having a flexible squeeze tube been structured and arranged so that it can be folded substantially flat to expel air from within such flexible squeeze tube, as a matter of engineering design choice, in order to make it convenient carrying the product around after transferring the liquid to the second bag.

Claim Rejections - 35 USC § 103

Alternatively, the following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-28, 30-32, 47, 53-55, 57, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borden (U.S. Patent No. 5,918,650) in view of Krstovic (U.S. Patent No. 5,285,824).

Borden discloses an adapted element system kit for assisting pouring of a flowable substance from at least one first container comprising at least one first threaded opening to (Fig. 1; via container 22) to at least one second container (Fig. 1; via container 38 and thread 20) having at least one second threaded opening (via 36); comprising at least one adapter cap

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comprising at least one Yorker tip (via 1st mating piece 12); wherein the at least one adapter cap is structured and arranged to connect to the at least one first threaded opening of the at least one first container (Fig. 1; via adapter 12 connected to threaded opening 20); at least one receiving adapter (Fig. 1; via 2nd mating piece 14) comprising at least one access structured and arranged to flowably connect with the at least one Yorker tip of the at least one adapter cap (Fig. 1; via 14 connected with the Yorker tip 12); wherein the at least one receiving adapter comprises at least one threaded port structured and arranged to connect with the at least one second threaded opening of the at least one second container (Fig. 1; via 14 connected to threaded opening 36); the at least one second container (via 38); wherein the at least one receiving adapter is structured and arranged so that the flowable substance may be transferred through the adapter cap connected to the at least one receiving adapter directly from the at least one second container (Fig. 1; via flowable substance transferred through 12 to the 14).

Borden does not disclose that the at least one second container (38) comprises at least one flexible squeeze tube. However, Krstovic discloses similar adapter element system kit with using second container being flexible squeeze tube, see for example (Figs. 1 and 2; via the flexible plastic bag D).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Borden's second container 38 by the use of flexible plastic container, as suggested by Krstovic, in order to make it easier transfer the interior of the container by squeezing.

Regarding claims 25 and 55: Borden discloses that at least one o-ring structured and arranged to assist in providing a seal between the at least one receiving adapter cap and the at

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least one second threaded opening of the at least one second container (Fig. 1; via ribs 30 and 50).

Regarding claim 26: Borden discloses that at least one second container comprises at least one spout (Fig. 1; via portions threaded portion).

Regarding claims 27 and 28: Borden discloses that at least one spout comprises at least one non-spill valve and lanyard, see for example (Fig. 1).

Regarding claim 53: Borden discloses that at least one second container is smaller than the at least one first container (Fig. 1). Note that it is inherent Borden's system is capable of working with second container being smaller than the first container.

Regarding claim 57: Borden discloses that the at least one second container comprises at least one empty flexible squeeze tube body portion (via bottle 38 is inherently is squeezable) having at least one first end and at least one second end (it is inherent that such bottle will have first and second ends); wherein the at least one empty flexible squeeze tube body portion is new and unused for containment (inherent before the use the container is new and containment); wherein the at least one first end comprises a reclosable access system wherein the reclosable access system when closed seals such at least one first open end (via by capping the spout of the bottle); and wherein the at least one second end comprises a permanent "linear" tube type seal closure (via the bottom portion of the bottle).

Claims 16-24, 30-32, 54, and 61 rejected under 35 U.S.C. 103(a) as being unpatentable over Borden (U.S. Patent No. 5,918,650).

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Borden nor Krstovic disclose the receiving adapter element comprises a plurality of receiving adapter elements; second container comprises a plurality of second containers; nor a plurality of squeeze tubes. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Borden in view of Kstovic's system by having a plurality of receiving adapter elements; second container comprises a plurality of second containers; and a plurality of squeeze tubes, in order to duplicate each part for extra use and/or replacing any damaged part by the customer, since it has been held that mere duplication of the essential working parts of a device/part involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 23: Borden in view of Krstovic do not disclose a travel-bag structured and arranged to hold and portably transport the plurality of second containers and the plurality of receiving adapter elements. However, the examiner takes an official notice that such travel bag to container human's needs is known, old, and available in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Borden in view of Krstovic's system, by having a travel bag to container and hold the containers and adapters, as a matter of engineering design choice, in order to make it convenient carrying the product around.

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Regarding claims 19-22: Borden in view of Krstovic do not disclose plunger syringe comprises catheter syringe with a capacity of about sixty cubic centimeter nor a flexible tube is between about one-eighth inch diameter and about one half inch diameter plastic tubing. However, as applicant did not specifically claim/refer to the use of such syringe along with the adapter element system, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Borden in view of Krstovic's system by adding syringe to the kit if needed, in order to measure and control the amount of the transfer liquid.

Regarding claim 30: Borden in view of Krstovic do not disclose that the second container is bag with bottom folded gusset. However, the examiner takes an official notice that such type of bag with bottom folded gusset is old, available, and known in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Borden as modified by Krstovic's second container, by having a bag with bottom folded gusset, as a matter of engineering design choice, in order to make it convenient carrying the product around after transferring the liquid to the second bag.

Regarding claim 31: it is inherent that Borden's system will disclose a set of instructions to advice customers with the best way of using the system.

Regarding claims 54 and 61: Borden in view of Krstovic do not disclose that the at least one flexible squeeze tube (38) is structured and arranged so that it can be folded substantially flat to expel air from within such flexible squeeze tube. However, the examiner takes an official notice that such flexible squeeze tube being structured and arranged so that it can be folded to expel air from within such flexible squeeze tube is old, available, and known in the art.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Borden in view of Krstovic's second container, by having a flexible squeeze tube been structured and arranged so that it can be folded substantially flat to expel air from within such flexible squeeze tube, as a matter of engineering design choice, in order to make it convenient carrying the product around after transferring the liquid to the second bag.

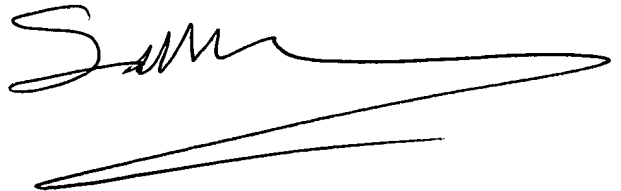
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sameh H. Tawfik
Primary Examiner
Art Unit 3721



ST.